

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DYLAN J. TUCKER,

No. 2:23-cv-00526-DAD-CKD (PS)

Plaintiff,

v.

PETER MCBRIEN, et al.,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION

Defendants.

(Doc. Nos. 9, 10, 17, 19)

Plaintiff Dylan J. Tucker, proceeding *pro se*, initiated this civil action on March 20, 2023, naming as defendants the Sacramento County Clerk Recorder, the Director of the California Department of Child Services, a Sacramento County Superior Court Judge, and a Commissioner of the Sacramento County Superior Court. (Doc. No. 1.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 28, 2023, the assigned magistrate judge issued findings and recommendations recommending that defendants' motions to dismiss plaintiff's complaint (Doc. Nos. 9, 10) be granted and that this action be dismissed without leave to amend because the granting of leave to amend his complaint would be futile. (Doc. No. 17.) In particular, the magistrate judge found that the judicial officer defendants were entitled to absolute judicial immunity for their actions relating to the judicial process and that this court lacks subject matter jurisdiction over plaintiff's claims that child support orders entered from 2013 through 2015 violated his constitutional rights.

1 (*Id.* at 3–5.) Further, the magistrate judge explained that “[i]n this instance, it is clear the
2 deficiencies in the complaint cannot be cured through amendment because no plausible claim can
3 be stated on plaintiff’s theory that his consent was required for the child support orders at issue.”
4 (*Id.* at 5.) The findings and recommendations were served on the parties and contained notice
5 that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 6.) On
6 August 14, 2023, plaintiff filed objections to the findings and recommendations. (Doc. No. 18.)
7 None of the defendants filed a response to plaintiff’s objections or objections of their own.

8 In his objections, plaintiff does not meaningfully address the findings and
9 recommendations. Rather, plaintiff repeats the same arguments that he had raised in his
10 opposition to the defendants’ motions to dismiss his complaint and that the magistrate judge
11 already fully addressed and rejected in the findings and recommendations. (*Id.*) Plaintiff also
12 asserts that the magistrate judge’s “arguments are irrelevant and another attempt to deceive and
13 mislead the court.” (*Id.* at 10.) Plaintiff’s criticism in this regard is inappropriate and will be
14 disregarded. In short, plaintiff’s objections provide no persuasive basis upon which to reject the
15 pending findings and recommendations, which the undersigned will adopt.

16 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
17 *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff’s
18 objections, the court concludes that the findings and recommendations are supported by the
19 record and proper analysis.

20 Accordingly,

- 21 1. The findings and recommendations issued on July 28, 2023 (Doc. No. 17) are
22 adopted in full;
23 2. Defendants’ motions to dismiss (Doc. Nos. 9, 10) are granted;
24 3. This action is dismissed due to plaintiff’s failure to state a cognizable claim;

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4. Plaintiff's pending motion for summary judgment (Doc. No. 19) is denied as having been rendered moot by this order; and
5. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: September 24, 2023

Dale A. Drozd